

RESOLUTION NO. 09-24

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO ENTER INTO A USE AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA FOR THE USE OF A REVERSE OSMOSIS PILOT SKID THAT WILL BE USED FOR RAW WATER TESTING IN CONNECTION WITH THE PLANNING, DESIGN AND CONSTRUCTION OF THE HIALEAH REVERSE OSMOSIS WATER TREATMENT PLANT, IN A TOTAL AMOUNT NOT TO EXCEED \$16,000, COMMENCING ON MAY 1, 2009 AND ENDING ON AUGUST 31, 2009, PAYABLE IN MONTHLY INSTALLMENTS OF \$4,000, IN SUBSTANTIAL FORM AS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1"

WHEREAS, the City of Hialeah, Florida, through its consultant, located a Reverse Osmosis Pilot Skid constructed by Collier County that was used for raw water testing in connection with the planning and construction of its Reverse Osmosis Water Treatment Plant that Collier County constructed at a cost of \$150,000; and

WHEREAS, the City negotiated a reduced rate of \$4,000 a month to lease the pilot skid for four months at a substantial savings to the City in lieu of constructing a similar structure for the purpose of testing raw water quality as part of its planning, design and construction of the Hialeah Reverse Osmosis Water Treatment Plant.

WHEREAS, the City of Hialeah finds that it is in the best interest of the City and its residents to enter into this use agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this resolution are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into a Use Agreement with the Board of County Commissioners of Collier County, Florida for the use of a Reverse Osmosis Pilot Skid that will be used for raw water testing in connection with the planning, design and construction of the Hialeah Reverse Osmosis Water Treatment Plant, in a total amount not to exceed \$16,000, commencing on May 1, 2009 and ending on August 31, 2009, payable in monthly installments of \$4,000, in substantial form as attached hereto and made a part hereof as Exhibit "1".

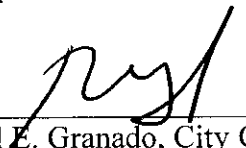
PASSED AND ADOPTED this 10th day of March,



Carlos Hernandez
Council President

Attest:

Approved on this 11 day of March, 2009.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

S:\WMG\LEGISLATIVE\RESOs\Resos 2009\useagreementcolliercountyROPilotskid.docx

Resolution was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".

USE AGREEMENT

This Use Agreement is made and entered into this _____ day of March, 2009, be and between the Board of County Commissioners of Collier County, Florida, a political subdivision of the State of Florida, whose mailing address is 3301 Tamiami Trail East, Naples, Florida 34112 (hereinafter referred to as "County") and the City of Hialeah, Florida, a Florida municipal corporation, whose mailing address is 501 Palm Avenue, Hialeah, Florida (hereinafter referred to as the "City").

WHEREAS, the City expressed an interest in using the Reverse Osmosis Pilot Skid (hereinafter referred to as "Equipment" owned by the County to be used for raw water testing purposes; and

WHEREAS, the County agrees to allow the City to use the Equipment for compensation and the City agrees to utilize the Equipment for compensation; and

NOW, THEREFORE, in consideration of the above premises which are incorporated within and made a part of this Agreement, and in further consideration of the mutual covenants set forth below, and other good and valuable consideration, acknowledged by the parties to be sufficient, just and adequate, and parties hereto do agree as follows:

1. **Term.** The term of this use agreement shall commence on or about May 1, 2009 and shall end no earlier than August 31, 2009. The City has the option to extend the agreement for an addition one or two months provided that the City pays the monthly compensation at the time of the extension. The City shall have the opportunity to inspect, test and accept the Equipment prior to the commencement of the Term described herein. The City, upon acceptance, shall pick up, transport and return the Equipment, at its own cost and expense.

2. **Compensation.** The City shall pay the County for the use of the Equipment in the amount of \$4,000.00 for each month for the first four months and \$2,000 for each month during the extension period if the City requests to extend the term for one or two months.

3. **No partnership.** Nothing contained within this Agreement shall create or be construed as creating a partnership between the County and the City or to constitute the City as an agent of the County.

4. **No improper use.** The City agrees to utilize the Equipment in the manner for which it is designed and shall not use the Equipment beyond its intended purpose. The City agrees, at the end of this Use Agreement, to return the Equipment to the County in the same order in which the Equipment was received by the City at the commencement of the Use Agreement.

5. **Self-insurance and Assumption of Risk.** The City is self-insured and shall provide a self-insurance certificate as proof thereof. The City agrees that while the Equipment is in the care, custody and control of the City, the City shall assume all risks of loss on a replacement cost basis. The City shall replace the Equipment if damaged beyond reasonable repair or shall repair the Equipment to its full value on a replacement cost basis.

6. **Indemnification.** To the maximum extent permitted by law, the City shall indemnify and hold harmless Collier County, its officer and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees and costs, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the City or anyone employed or utilized by the City in the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies that otherwise may be available to an indemnified party or person described in this section. This indemnity does not constitute a waiver of the City's sovereign immunity. This section does not pertain to any incident arising from the sole negligence of the County.

IN WITNESS WHEREOF, the City and the County, have each, respectively, by an authorized person or representative, hereunder set their hands and seals on the date and year first above written.

City of Hialeah, Florida
501 Palm Avenue
Hialeah, Florida 33010

Attest:

Rafael E. Granado, City Clerk

By: _____
Mayor Julio Robaina

First Witness
Typed/printed name: _____

(SEAL)

Approved as to legal sufficiency and form:

Second Witness
Typed/printed name: _____

William M. Grodnick

Board of County Commissioners of
Collier County, Florida
3301 Tamiami Trail East
Naples, Florida 34112

Attest:

By: _____
Dwight E. Brock, Clerk of Courts

By: _____
Donna Fiala, Chair

First Witness
Typed/printed name: _____

(SEAL)

Approved as to legal sufficiency and form:

Second Witness
Typed/printed name: _____

Jennifer White
Assistant County Attorney